

HOUSE BILL REPORT

ESSB 5806

As Reported by House Committee On:
Children & Family Services

Title: An act relating to child care services.

Brief Description: Requiring child care agencies to provide additional information to parents.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Hargrove, Rasmussen and Jacobsen).

Brief History:

Committee Activity:

Children & Family Services: 3/30/05, 3/31/05 [DPA].

Brief Summary of Engrossed Substitute Bill
(As Amended by House Committee)

- Requires the Department of Social and Health Services (DSHS) to establish a toll-free telephone number for information regarding daycare.
- Requires the DSHS and daycare providers to make specified information relating to daycare licensing available.
- Establishes penalties and actions to be taken by the DSHS in response to non-compliance with daycare licensing requirements.
- Establishes insurance requirements for licensed daycare.

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: Do pass as amended. Signed by 7 members: Representatives Kagi, Chair; Roberts, Vice Chair; Walsh, Assistant Ranking Minority Member; Darneille, Dickerson, Haler and Pettigrew.

Minority Report: Do not pass. Signed by 2 members: Representatives Hinkle, Ranking Minority Member; and Dunn.

Staff: Cynthia Forland (786-7152).

Background:

The Department of Social and Health Services (DSHS) is required to license agencies providing care for children outside of their homes as identified by state law. The purpose of this licensing requirement is to assure the users of those agencies, their parents, the community at large, and the agencies themselves that adequate minimum standards are maintained by all agencies caring for children in order to safeguard the health, safety, and well-being of those children receiving care.

The following are included in the agencies identified in state law as subject to licensing by the DSHS:

- child daycare centers, which are defined as agencies that regularly provide care for a group of children for periods of less than 24 hours; and
- family daycare providers, which are defined as child daycare providers who regularly provide child daycare for not more than 12 children in the provider's home in the family living quarters.

Child Care Resource and Referral agencies in the state assist parents in accessing child care by providing information on licensed child care and child care subsidy programs. They also facilitate the licensing process for child care providers and generate public awareness of child care issues.

State law requires the establishment of a nonprofit, joint underwriting association for daycare insurance. Any daycare licensee may apply to the joint underwriting association to purchase daycare insurance, and the association is required to offer a policy with liability limits of at least \$1,000 per occurrence.

State law also empowers associations meeting specified criteria to create and operate self-insurance plans to provide general liability coverage to member child daycare centers who choose to subscribe to the plans.

Summary of Amended Bill:

Access to Information:

The DSHS is required to establish and maintain a toll-free telephone number and an interactive web-based system through which persons may obtain information regarding child daycare centers and family daycare providers. This number must be available 24 hours a day for persons to request information. The DSHS is required to respond to recorded messages left at the number within two business days. The number must be published in reasonably available printed and electronic media. The number must be easily identifiable as a number through which persons may obtain information regarding child daycare centers and family daycare providers.

Through the established toll-free telephone line, the DSHS is required to provide information to callers about the following:

- whether a daycare provider is licensed;

- whether a daycare provider's license is current;
- the general nature of any enforcement action against a provider;
- how to report suspected or observed noncompliance with licensing requirements;
- how to report alleged abuse or neglect in a daycare;
- how to report health, safety, and welfare concerns in a daycare;
- how to receive follow-up assistance, including information on the Office of the Family and Children's Ombudsman; and
- how to receive referral information on other agencies or entities that may be of further assistance to the caller.

Beginning in January 2006, the DSHS is required to print the established toll-free number on the face of new licenses issued to child daycare centers and family daycare providers.

Every child daycare center and family daycare provider is required to prominently post the following items, clearly visible to parents and staff:

- the daycare license;
- the toll-free telephone number established by DSHS in accordance with the bill;
- the notice of any pending enforcement action, which must be posted immediately upon receipt and must be posted for at least two weeks or until the violation causing the enforcement action is corrected, whichever is longer;
- a notice that inspection reports and any notices of enforcement actions for the previous three years are available from the licensee and the DSHS; and
- any other information required by the DSHS.

The DSHS is required to disclose, upon request, the receipt, general nature, and resolution or current status of all complaints on record with the DSHS, after the effective date of the bill, against a child daycare center or family daycare provider that result in an enforcement action.

It is provided that the provisions of the bill relating to the toll-free telephone number and interactive web-based system for providing information regarding child daycare centers and family daycare providers, the posting of specified information by daycare providers, and the disclosure of information by the DSHS concerning complaints against daycare providers resulting in an enforcement action must not be construed to require the disclosure of any information that is exempt from public disclosure under chapter 42.17 RCW.

Inspection Reports and Enforcement Actions:

Every child daycare center and family daycare provider is required to have readily available for review by the DSHS, parents, and the public a copy of each inspection report and notice of enforcement action received by the center or provider from the DSHS for the past three years for reports and notices received on or after the effective date of the bill.

The DSHS is required to make available to the public during business hours all inspection reports and notices of enforcement actions involving child daycare centers and family daycare providers consistent with chapter 42.17 RCW relating to information disclosure. The DSHS is required to include in the inspection report a statement of the corrective measures taken by the center or provider.

An agency required to be licensed by the DSHS in accordance with chapter 74.15 RCW or RCW 74.13.031 that continues to operate following a license revocation is subject to the maximum penalty for each day of operation following the revocation.

The DSHS may place a child daycare center or family daycare provider on non-referral or stop-placement status if the center or provider has failed or refused to comply with chapter 74.15 RCW or rules adopted under that chapter or an enforcement action has been taken. The non-referral or stop-placement status may continue until the DSHS determines that: no enforcement action is appropriate; a complaint is not founded or valid; or a corrective action plan has been successfully concluded. The DSHS must then remove the center or provider from non-referral status and provide appropriate notice to public and private Child Care Resource and Referral agencies.

The DSHS is required to notify appropriate public and private Child Care Resource and Referral agencies of the DSHS' decision to take an enforcement action against the center or provider.

Whenever an enforcement action is taken, the DSHS is required to notify the child care agency subject to the action in writing by personal service within 10 business days.

Insurance Requirement:

Every licensed child daycare center is required to provide to the DSHS, at the time of licensure or renewal and at any inspection, proof that the licensee has daycare insurance as defined in state law or is self-insured pursuant to state law.

Every licensed child daycare center, including initial and probationary licensees, is required to comply with the following requirements:

- notify the DSHS when coverage has been terminated;
- post at the daycare center, in a manner likely to be observed by patrons, notice that coverage has lapsed or been terminated; and
- provide written notice to parents that coverage has lapsed or terminated within 30 days of lapse or termination.

Liability limits must be the same as set forth in state law for daycare insurance.

The DSHS may deny an agency a license or suspend, revoke, modify, or not renew a license as provided in state law if the licensee fails to maintain in full force and effect the insurance required under the bill.

A child daycare center that is licensed as of the effective date of the bill is not required to be in compliance with the insurance requirement until the time of renewal of the license or until January 1, 2006, whichever is sooner.

Every licensed family daycare provider is required, at the time of licensure or renewal, to provide:

- proof, to the DSHS, that the licensee has daycare insurance as defined in state law or other applicable insurance; or

- written notice of the provider's insurance status to parents with a child enrolled in the family daycare.

Family daycare providers may choose to opt out of the requirement to have daycare or other applicable insurance but must provide written notice of their insurance status to parents.

Any licensed family daycare provider that provides proof to the DSHS that the licensee has daycare insurance or other applicable insurance, is required to comply with the following requirements:

- notify the DSHS when coverage has been terminated;
- post at the daycare home, in a manner likely to be observed by patrons, notice that coverage has lapsed or been terminated; and
- provide written notice to parents that coverage has lapsed or terminated within 30 days of lapse or termination.

Liability limits must be the same as set forth in state law for daycare insurance.

The DSHS may deny an agency a license or suspend, revoke, modify, or not renew a license as provided in state law if the licensee fails to notify the DSHS when coverage has been terminated.

A family daycare provider that is licensed as of the effective date of the bill is not required to be in compliance with the insurance requirement until the time of renewal of the license or until January 1, 2006, whichever is sooner.

Noncompliance or compliance with the provisions of the bill concerning insurance requirements for child daycare centers and family daycare providers must not constitute evidence of liability or nonliability in any injury litigation.

Amended Bill Compared to Engrossed Substitute Bill:

It is provided that family daycare providers may choose to opt out of the requirement to have daycare or other applicable insurance but must provide written notice of their insurance status to parents with a child enrolled in the family daycare.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (In support) This bill is a compilation of three different bills that have been introduced in recent years. One basis of the bill is the greater demand for child care and the difficulty in ensuring that we have an adequate supply of licensed, quality child care. It is critical for parents to be able to make informed choices, to make sure that the daycare provider is one that will be high quality and one that will be concerned for the best interest and the safety and the well-being of the child. A second basis of the bill is the importance that

daycare providers, particularly family home providers, be able to conduct their business without an enormous amount of regulation imposed upon them. This bill would provide parents with the ability to access information about enforcement and licensing actions that have taken place in the most reasonable way without putting too many demands on the provider. The bill provides an opt-out measure so that family daycare providers do not have to have liability insurance as long as the parents know that that is the case. The purpose of the liability insurance requirement is to make sure that we have the best child care possible being provided.

Parents should have access to information to find out what child care is the best for their children so that they can make informed decisions. This compilation of bills comes out of a great, urgent need for access to information. Insurance is already required by many child care institutions, including Head Start, the state's Early Childhood Education and Assistance Program (ECEAP), and the military child care program, since insurance has become extremely cheap. Twenty states require liability insurance, and have shown marked improvement in the quality of child care. The insurance industry would provide another layer of oversight. Information available through the toll-free line should include information from the Department of Health, Child Protective Services, and child care licensing.

(With amendments) Most centers have insurance and see it as a smart way to go about their business. Most family child care homes have insurance through their homeowners' policies. This is a really logical thing, if you are going to engage in a kind of business where there are kids and liability, to have some kind of protection for yourself, your home, your children. Insurance has not always been available and affordable. That is why there is a pool in the Office of the Insurance Commissioner for family child care. The compromise in the bill allows family child care not to have insurance but they have to inform the parents that they do not have insurance. That will really drive most family homes to get insurance. It is appropriate that only actual enforcement actions are required to be posted. The opt-out language in the bill for the insurance requirement for family homes is not as clear as it might be.

Testimony Against: None.

Persons Testifying: (In support) Senator Kohl-Welles, prime sponsor; Nikki Goel; and Stu Jacobson, Washington Parents for Safe Child Care.

(With amendments) Lonnie Johns-Brown, The Collaborative.

Persons Signed In To Testify But Not Testifying: None.